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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

19 CR 450 (PGG)

5 JAMIE FRIERSON,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 November 22, 2019  
3:12 p.m.

10 Before:

11 HON. PAUL G. GARDEPHE,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN,

16 United States Attorney for the  
Southern District of New York

17 SEBASTIAN SWETT

18 ALINE FLODR

Assistant United States Attorneys

19 CHRISTOPHER FLOOD

20 Attorney for Defendant

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1 (In open court)

2 (Case called)

3 MR. SWETT: Yes, Shebb Swett and Aline Flodr for the  
4 United States.

5 MR. FLOOD: Yes, your Honor. Good afternoon.  
6 Christopher Flood, Federal Defenders of New York. I'm here  
7 with Jamie Frierson at Kingsbrook Hospital by video.

8 THE DEFENDANT: Good afternoon, your Honor. This is  
9 Jamie Frierson.

10 THE COURT: All right. So I should say for the record  
11 that we are conducting this conference, which I expect will be  
12 a guilty plea, through videotape because of the serious medical  
13 condition that Mr. Frierson is in.

14 So, Mr. Frierson, we're going to begin by placing you  
15 under oath because, as I said, my expectation is that you're  
16 going to be entering a plea of guilty to the indictment. Is  
17 that your intention, sir?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right. Mr. Ruocco, would you please  
20 administer the oath to Mr. Frierson.

21 (Defendant sworn)

22 All right. Mr. Frierson, you should understand that  
23 you're now under oath, and if you answer any of my questions  
24 falsely, your answers may later be used against you in another  
25 prosecution for perjury or for making a false statement. Do

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1 you understand that, sir?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Frierson, have you received an Advice  
4 of Rights form that lays out the rights that you enjoy in  
5 connection with this proceeding?

6 THE DEFENDANT: Yes, I have.

7 THE COURT: And have you discussed the Advice of  
8 Rights form with Mr. Flood?

9 THE DEFENDANT: Yes, I have. I've discussed them at  
10 length with my attorney.

11 THE COURT: All right. And have you signed the Advice  
12 of Rights form?

13 THE DEFENDANT: Yes, I have.

14 THE COURT: All right.

15 Then, Mr. Flood, when you return, I would ask you to  
16 give us a copy of the Advice of Rights form so that we can have  
17 it for our records.

18 MR. FLOOD: Yes, your Honor. It's been completed,  
19 executed, and I've marked it as Defense Exhibit 1, and I'll  
20 provide --

21 THE COURT: Could you say that again, Mr. Flood? The  
22 court reporter had trouble hearing you.

23 MR. FLOOD: I'm sorry. The volume is very faint on  
24 this end, too. I'm very sorry.

25 Mr. Frierson executed the form, as did I. This is the

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1 copy. I've marked it as Defense Exhibit 1, and I will provide  
2 it to chambers by hand when I return this afternoon.

3 THE COURT: All right. Thank you, Mr. Flood.

4 Mr. Frierson, before deciding whether to accept your  
5 guilty plea, I am required to ask you certain questions. It's  
6 important that you answer these questions honestly and  
7 completely. The purpose of these proceedings is to make sure  
8 that you understand your rights and for me to make certain that  
9 you are pleading guilty of your own free will --

10 THE DEFENDANT: Yes.

11 THE COURT: -- and to make sure that you are pleading  
12 guilty because you are, in fact, guilty and not for some other  
13 reason. Do you understand that, sir?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: If you don't understand any of my  
16 questions, or you want to consult with Mr. Flood at any time,  
17 please say so because it is important that you understand every  
18 question before you answer it.

19 THE DEFENDANT: Yes, your Honor. I understand.

20 THE COURT: Mr. Frierson, could you please state your  
21 full name?

22 THE DEFENDANT: My name is Jamie Frierson. I was born  
23 in 1969, October 21st.

24 THE COURT: All right. And how old does that make  
25 you?

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1 THE DEFENDANT: Well, I just turned 50 last week.

2 THE COURT: All right. How far did you go in school?

3 THE DEFENDANT: I have my G.E.D. I went to the -- I  
4 obtained my General Equivalency Diploma, but I went to the 11th  
5 grade.

6 THE COURT: Okay. But you have your G.E.D.?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. Have you ever been addicted to any  
9 drugs or alcohol or been treated for any addiction?

10 THE DEFENDANT: Unfortunately, yes.

11 THE COURT: All right. Are you currently experiencing  
12 any symptoms associated with your prior drug use?

13 THE DEFENDANT: No. No, your Honor. The only the  
14 medication that I'm taking now is purely for the cancer,  
15 unfortunately, that I have.

16 THE COURT: All right. So the medication you're  
17 taking now doesn't affect your thinking or judgment in any way?

18 THE DEFENDANT: No, not to my knowledge.

19 THE COURT: Okay. Now, other than the medication you  
20 told me about, have you taken any other drugs, medicine or  
21 pills or drunk any alcohol within the last 24 hours?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Is your mind clear today, and do you  
24 understand what is happening?

25 THE DEFENDANT: Yes, I do.

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1 THE COURT: Mr. Flood, do you have any doubt as to  
2 Mr. Frierson's competence to plead guilty this afternoon?

3 MR. FLOOD: No, your Honor. I don't.

4 Can I just make a comment, though? He is, of course,  
5 in some pain, and I may just ask him to lean back on the bed  
6 and just ask the parties and the Court to speak as loudly as  
7 possible. I'm very sorry.

8 THE COURT: Okay.

9 So, Mr. Frierson, if you need to get into another  
10 position to make yourself comfortable, please feel free to do  
11 that. Okay?

12 THE DEFENDANT: Yes, your Honor. Thank you.

13 THE COURT: On the basis of Mr. Frierson's responses  
14 to my questions and my observations of his demeanor, I find  
15 that he is competent to enter an informed plea.

16 Mr. Frierson, have you received a copy of the  
17 indictment which reflects the charges against you?

18 THE DEFENDANT: Yes, I have, your Honor.

19 THE COURT: And have you read the indictment?

20 THE DEFENDANT: Yes.

21 THE COURT: You should understand that in Count One of  
22 the indictment you are charged with bank robbery. The  
23 government says that on May 8th of this year, you entered an  
24 Apple Bank branch at 120 East Fordham Road in The Bronx and  
25 that you used threats of violence and demanded that a bank

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1 employee turn over money to you, money that was in the bank's  
2 custody.

3 In Count Two of the indictment, you are charged with a  
4 separate count of bank robbery. The government says that on  
5 May 9th of this year, you entered another Apple Bank branch,  
6 this one located at 44 East 161st Street in The Bronx, and that  
7 once again, you used threats of violence in demanding that a  
8 bank employee turn over to you money that was in the bank's  
9 custody.

10 Do you understand that these are the charges against  
11 you in the indictment?

12 THE DEFENDANT: Yes, I do, your Honor.

13 THE COURT: Do you wish me to read the indictment to  
14 you now?

15 THE DEFENDANT: It's not -- I went over it thoroughly  
16 with my attorney; so it's really not necessary.

17 THE COURT: Okay. Have you had enough time to discuss  
18 your case with Mr. Flood?

19 THE DEFENDANT: Yes, I have. I discussed it. I've  
20 been able to discuss it with him at length --

21 THE COURT: Okay. And have you --

22 THE DEFENDANT: -- before we started.

23 THE COURT: Have you discussed with him your intention  
24 to plead guilty to these charges?

25 THE DEFENDANT: Yes, I have, your Honor.

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1 THE COURT: Have you discussed with him any possible  
2 defenses you might have to these charges, as well as all the  
3 facts about your involvement in this matter?

4 THE DEFENDANT: Yes, your Honor. I did. I've  
5 discussed in thorough detail with Mr. Flood any options or any  
6 defenses while -- according to the case.

7 THE COURT: Has he told you about the consequences of  
8 pleading guilty?

9 THE DEFENDANT: Yes. Yes, he did.

10 THE COURT: Are you satisfied with Mr. Flood's  
11 representation of you?

12 THE DEFENDANT: Yes. Yes, I am, your Honor.

13 THE COURT: I'm now going to explain certain  
14 constitutional rights that you have. These are rights you'll  
15 be giving up if you enter a guilty plea. Please listen  
16 carefully to what I'm about to say, and if you don't understand  
17 something, stop me and either myself or Mr. Flood will explain  
18 the matter to you more fully.

19 Under the Constitution and laws of the United States,  
20 you have a right to a speedy and public trial by a jury on the  
21 charges against you contained in the indictment. Do you  
22 understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: If there were a trial, you would be  
25 presumed innocent, and the government would be required to



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1 prove your guilt by competent evidence and beyond a reasonable  
2 doubt. You would not have to prove you were innocent at a  
3 trial. Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: If there were a trial, a jury composed of  
6 12 people selected from this district would have to agree  
7 unanimously before you could be found guilty. Do you  
8 understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: If you decide to go to trial, at that  
11 trial and at every stage of your case, you would have the right  
12 to be represented by an attorney, and if you could not afford  
13 one, an attorney would be appointed to represent you at  
14 government expense and at no cost to you.

15 If you decided to retain a lawyer and you ran out of  
16 money, an attorney would be appointed to continue to represent  
17 you and to handle your case all the way through trial and not  
18 just for purposes of a guilty plea.

19 So your decision to plead guilty should not depend on  
20 whether you can afford a lawyer. Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: If there were a trial, you would have the  
23 right to see and hear all of the witnesses against you, and  
24 your attorney could cross-examine them. You'd have a right to  
25 have your attorney object to the government's evidence and to

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1 offer evidence on your behalf, if you so desired. You would  
2 have the right to have subpoenas issued to compel witnesses to  
3 testify in your defense. Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: If there were a trial, you'd have a right  
6 to testify, if you wanted to, but no one could force you to  
7 testify if you did not want to. Furthermore, no inference or  
8 suggestion of guilt could be drawn if you chose not to testify  
9 at a trial. Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: If you were convicted at a trial, you  
12 would have the right to appeal that verdict to a higher court.  
13 Do you understand that?

14 THE DEFENDANT: Yes. Yes, your Honor.

15 THE COURT: Even now, as you're entering this plea,  
16 you have the right to change your mind, plead not guilty and go  
17 to trial on the charges contained in the indictment. Do you  
18 understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: If you plead guilty, and I accept your  
21 plea, you will give up your right to a trial and the other  
22 rights I just discussed, other than the right to a lawyer,  
23 which you have regardless of whether or not you plead guilty.

24 If you plead guilty, I will enter a judgment of guilty  
25 and sentence you on the basis of your plea after I have

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1 considered a presentence report and whatever submissions I  
2 receive from your lawyer and the prosecutor. Do you understand  
3 that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: If you plead guilty, you will have to give  
6 up your right not to incriminate yourself because I will ask  
7 you questions about what you did in order to satisfy myself  
8 that you are guilty as charged, and you will have to admit and  
9 acknowledge your guilt. Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: As I mentioned earlier, you are charged in  
12 the indictment with two separate counts of bank robbery. I'm  
13 now going to tell you the elements of that offense. This is  
14 what the government would have to prove beyond a reasonable  
15 doubt as to each count if you were to go to trial.

16 First, the government would have to show that you took  
17 money that belonged to or was otherwise in the care, custody,  
18 control, management or possession of a bank; second, the  
19 government would have to show that you did so by force and  
20 violence or by acting in an intimidating manner; third, the  
21 government would have to show that the bank in question was  
22 insured by the Federal Deposit Insurance Corporation.

23 Mr. Frierson, do you understand that these are the  
24 elements of the bank robbery offenses you have been charged  
25 with in Counts One and Two?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: I now must tell you the maximum and any  
3 minimum possible penalty for these crimes. The maximum means  
4 the most punishment that could possibly be imposed. It does  
5 not necessarily mean that is what you will receive, but you  
6 have to understand that by pleading guilty, you are exposing  
7 yourself to the possibility of receiving any combination of  
8 punishments up to the maximum I am about to describe.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Count One and Count Two each carry a  
12 maximum term of imprisonment of 20 years, which could be  
13 followed by a maximum sentence of three years' supervised  
14 release.

15 Supervised release means that if you are sentenced to  
16 prison, after you are released from prison, you will be subject  
17 to supervision by the U.S. Probation Office. There will be  
18 rules of supervised release that you will have to follow, and  
19 if you violate those rules, you can be returned to prison  
20 without a jury trial to serve additional time even beyond your  
21 original sentence.

22 In addition, these offenses each carry a maximum fine  
23 of \$250,000, or twice the gross pecuniary gain derived from the  
24 offense, or twice the gross pecuniary loss resulting from the  
25 offense, whichever is greatest.

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1           The terms of imprisonment on these two counts could be  
2 imposed concurrently, meaning at the same time, or  
3 consecutively, meaning one after the other.

4           Do you understand all of that, Mr. Frierson?

5           THE DEFENDANT: Yes, your Honor.

6           THE COURT: Parole has been abolished in the federal  
7 system, and if you are sentenced to prison, you will not be  
8 released early on parole. There is a limited opportunity to  
9 earn credit for good behavior, but you will have to serve at  
10 least 85 percent of the time you are sentenced to. Do you  
11 understand that?

12          THE DEFENDANT: Yes, your Honor.

13          THE COURT: There is also a mandatory minimum fine or  
14 special assessment of \$100 that I'm required to impose on each  
15 count of conviction. Do you understand that?

16          THE DEFENDANT: Yes, your Honor.

17          THE COURT: As part of your sentence, I have the power  
18 to order you to make restitution to any party or person injured  
19 as a result of your criminal conduct, and I can also order you  
20 to forfeit certain property to the government. Do you  
21 understand that?

22          THE DEFENDANT: Yes, your Honor.

23          THE COURT: Being convicted of a felony may have other  
24 consequences, such as the loss of licenses or the right to  
25 possess a firearm. If you are a citizen, you could lose your

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1 right to vote. If you're not a citizen of the United States,  
2 you will likely lose your right to remain in this country and  
3 you may be deported.

4 This is not a full list of the consequences of a  
5 felony conviction, but these are examples. Do you understand  
6 that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: There are sentencing guidelines I'm  
9 required to consult in order to determine an appropriate  
10 sentence in this case. Have you talked with Mr. Flood about  
11 the sentencing guidelines?

12 THE DEFENDANT: Yes, I have.

13 THE COURT: You should understand that I will not be  
14 able to determine what the sentencing guidelines recommend as  
15 to your sentence until after a presentence report has been  
16 prepared by the U.S. Probation Office, and you and the  
17 government have had a chance to comment on the report prepared  
18 by the probation office. Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: You should also understand that after I  
21 have determined what the guidelines recommend as to a  
22 sentencing range and considered whether a departure, whether  
23 upwards or downwards, from that guidelines range is called for,  
24 I will then determine what an appropriate sentence is in your  
25 case, having in mind not only the sentencing guidelines, but

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1 all of the factors set forth in the sentencing statute,  
2 including the need for the sentence imposed to reflect the  
3 seriousness of the offense, the need to promote respect for the  
4 law, the need to provide just punishment and the need to afford  
5 adequate deterrence to criminal conduct. Do you understand  
6 that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: You should understand that if your  
9 attorney or anyone else has attempted to estimate or predict  
10 what your sentence will be, that their estimate or prediction  
11 could be wrong? Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: No one, not even your attorney or the  
14 prosecutor, can give you any assurance of what your sentence  
15 will be. Your sentence cannot be determined until the  
16 presentence report is complete and I have ruled on any  
17 challenges to the report, determined whether there are grounds  
18 to depart, whether upwards or downwards, from the guidelines  
19 range, and otherwise determine what an appropriate sentence is  
20 in your case. Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: You should fully understand that even if  
23 your sentence is different from what your attorney or anyone  
24 else told you it might be, or if it is different from what you  
25 expect, you will still be bound by your guilty plea and you

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1 will not be allowed to withdraw your plea of guilty. Do you  
2 understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Mr. Flood, do you know of any valid  
5 defense that would prevail at trial, or any other reason why  
6 Mr. Frierson should not be permitted to plead guilty?

7 MR. FLOOD: Your Honor, no, I don't, as to either  
8 question.

9 THE COURT: Do you believe that there's an adequate  
10 factual basis to support a guilty plea?

11 MR. FLOOD: I do.

12 THE COURT: Mr. Swett, does the government represent  
13 there's an adequate factual basis for the guilty plea?

14 MR. SWETT: Yes, your Honor.

15 THE COURT: Mr. Frierson, we've reached the point  
16 where I need you to tell me what you did in connection with the  
17 crimes with which you are charged that makes you believe that  
18 you are guilty.

19 THE DEFENDANT: Yes, your Honor. Good afternoon, your  
20 Honor. My name is Jamie Frierson, and I'm 50 years old, and I  
21 was born in New York City. I'm pleading guilty this afternoon  
22 because I'm guilty of robbing two banks on May of this year,  
23 both in The Bronx, in The Bronx, New York, and I want you to  
24 know it's a crime. I want you to know that I know it's a crime  
25 to rob banks.



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1 I'm not proud of what I did, and this is the first  
2 chance I've had an opportunity to speak in court about it. And  
3 I'd like to be clear with you, but also and especially the bank  
4 tellers who I frightened -- to the bank tellers whom I  
5 frightened, that I acknowledged that placing people in fear is  
6 harmful. What I did was wrong, and I should have never have  
7 done it.

8 I'm ashamed of myself, and I'm deeply sorry for what I  
9 did to them. I cannot take back what I did, but I do hope that  
10 with this apology, I can offer the people who I harmed,  
11 frightened and endangered some closure, some measure of solace  
12 and a chance to heal.

13 On May 8th, 2019, at a bank at East Fordham Road in  
14 The Bronx, I passed a note to the bank teller, and in the note  
15 I claimed to be armed because I wanted to make the teller think  
16 that I had a weapon and I would use it unless she gave me  
17 money. In response to my threat, the teller gave me money from  
18 the bank drawer, and I left.

19 The next day, on May 9th, 2019, I did the same -- I  
20 did the same thing at an Apple Bank on 161st Street in The  
21 Bronx. I passed a note to the teller, and in the note I  
22 claimed to be armed because I wanted to make the teller think  
23 that I had a gun and I would use it unless she gave me money.  
24 So in response to my threat, the teller gave me money from the  
25 bank drawer.

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1 I'm guilty of these crimes, your Honor, and I plead  
2 guilty to them, and I ask your Honor to accept my guilty plea  
3 and find me guilty.

4 THE COURT: And --

5 THE DEFENDANT: I just want --

6 THE COURT: I'm sorry, Mr. Frierson.

7 THE DEFENDANT: Oh, I just wanted to make sure that  
8 you're clear that how apologetic I was to the bank tellers, and  
9 how I wish that this had never happened, but there were a lot  
10 of things going -- there were a lot of things going on with me  
11 at the time, but I imagine that's for another time. Thank you  
12 for letting me speak, your Honor.

13 THE COURT: All right. Mr. Swett, does the government  
14 represent that each bank discussed in Count One and Count Two  
15 of the indictment, that the deposits of those banks were  
16 insured by the Federal Deposit Insurance Corporation?

17 MR. SWETT: Yes, your Honor.

18 THE COURT: All right. Do you wish me to ask any  
19 other questions of Mr. Frierson?

20 MR. SWETT: No, your Honor.

21 THE COURT: Mr. Frierson, are you pleading guilty  
22 because you are, in fact, guilty?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And are you pleading guilty voluntarily  
25 and of your own free will?

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1 THE DEFENDANT: Yes.

2 THE COURT: I'll ask you now, first, as to Count One,  
3 how do you plead, guilty or not guilty?

4 THE DEFENDANT: Count One, I plead guilty, your Honor.

5 THE COURT: And as to Count Two, guilty or not guilty?

6 THE DEFENDANT: I plead guilty, your Honor.

7 THE COURT: Mr. Swett, do you wish me to allocute  
8 Mr. Frierson as to the forfeiture allegation?

9 MR. SWETT: Yes, your Honor. I'm not sure if we  
10 seized money when he was arrested; so out of an abundance of  
11 caution, let's allocute him on it.

12 THE COURT: All right.

13 Mr. Frierson, the indictment includes what's called a  
14 forfeiture allegation, and in the forfeiture allegation, the  
15 government puts you on notice that it seeks any and all  
16 property constituting or derived from any proceeds that you  
17 obtained, directly or indirectly, as a result of the offenses  
18 that are charged in Counts One and Two of the indictment.

19 Do you admit the forfeiture allegations set forth in  
20 the indictment?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Because you acknowledge that you are  
23 guilty as charged in the indictment; because I find that you  
24 know your rights and you are waiving them knowingly and  
25 voluntarily; because I find your plea is entered knowingly and

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1 voluntarily and is supported by an independent basis in fact  
2 containing each of the essential elements of the offenses, I  
3 accept your guilty plea and adjudge you guilty of the offense  
4 to which you have plead guilty.

5 I will order a presentence report.

6 Mr. Flood, do you have any views as to what the  
7 appropriate date for a sentence should be? Is this a sentence  
8 I should expedite or not?

9 MR. FLOOD: I believe so, your Honor. What I was  
10 going to propose about the next step is that I confer with the  
11 government, ideally this afternoon, in that we can either call  
12 chambers or submit a letter with a proposed sentencing date and  
13 schedule.

14 And in terms of a presentence report, there is one  
15 from last spring, and so we may not need to take the full time  
16 even for an expedited sentencing.

17 THE COURT: All right. So before setting a trial  
18 date, I'll wait to hear from the lawyers as to what they think  
19 is reasonable, and then I'll be in touch with the probation  
20 office. If it's appropriate to enter an expedited date, and it  
21 may well be, then that's what I'll do.

22 MR. FLOOD: Very good. Thank you, your Honor.

23 THE DEFENDANT: Thank you, your Honor.

24 THE COURT: All right. Anything else anyone wants to  
25 say?

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1 MR. SWETT: No. Thank you, your Honor.

2 THE COURT: All right. Mr. Frierson, I hope your  
3 medical care there is successful.

4 THE DEFENDANT: Thank you. Thank you very much, your  
5 Honor. I'm trying as best as I can.

6 THE COURT: All right. We're adjourned. Thank you.

7 (Adjourned)

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